

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:04cr295

UNITED STATES OF AMERICA

vs.

MICHAEL McRAE

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ORDER

THIS MATTER is before the Court upon motion of the defendant filed pro se on April 9, 2008, for a reduction of sentence based on the retroactive amendments to the United States Sentencing Guidelines relating to crack cocaine. (Doc. No. 116).

The defendant was sentenced to life imprisonment, the mandatory sentence prescribed in 21 U.S.C. § 841(b)(1)(A), based on his plea to conspiracy to possess with intent to distribute 50 grams or more of a mixture and substance containing cocaine base and his two prior felony drug convictions. (Doc. No. 1: Indictment; Doc. No. 16: Information; Doc. No. 40: Plea Agreement; Doc. No. 91: Judgment; Doc. No. 92: Statement of Reasons). The sentence was affirmed by the Fourth Circuit on direct appeal (Doc. No. 108: Opinion) and collateral review (Doc. No. 115: Opinion). The defendant is not entitled to relief on the instant motion because the change in the guidelines does not affect the defendant's sentence. Neal v. United States, 516 U.S. 284, 296 (1996) (retroactive amendment to guidelines does not alter statutory mandatory minimum).

IT IS, THEREFORE, ORDERED that the defendant's motion is **DENIED**.

The Clerk is directed to certify copies of this order to the defendant, the Community Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: April 12, 2008

A handwritten signature in cursive script, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
Chief United States District Judge

